

HEARING DATE: November 16,  
2000  
HEARING TIME: 10:00 a.m.

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In re	:
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RANDALL'S ISLAND FAMILY GOLF	:
CENTERS, INC., <u>et al.</u> ,	:
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Debtors.	:
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**OBJECTION OF THE UNITED STATES TRUSTEE  
REGARDING APPLICATIONS FOR FIRST INTERIM COMPENSATION**

TO THE HONORABLE STUART M. BERNSTEIN, CHIEF BANKRUPTCY JUDGE:

The United States Trustee for the Southern District of New York objects to the following applications seeking awards of interim compensation plus reimbursement of out-of-pocket expenses.

APPLICANT	PERIOD	FEES	EXPENSES	HOURS
Fried, Frank, Harris, Shriver & Jacob  Counsel to the Debtors	5/4/00- 8/31/00	\$1,414,612.00	\$177,297.35	4,154.2
Zolfo Cooper, LLC  Financial Advisors to the Debtors	5/4/00- 8/31/00	\$701,010.00	\$9,830.32	2,162.2
Berlack, Israels & Lieberman LLP  Counsel to the Creditors' Committee	5/13/00- 8/31/00	\$257,059.00	\$5,272.75	829.8

APPLICANT	PERIOD	FEES	EXPENSES	HOURS
Chanin Capital Partners  Financial Advisors to the Creditors Committee	5/13/00-8/31/00	\$172,500.00	\$1,683.54	752.5
Members of the Creditors' Committee	5/13/00-8/31/00	N/A	\$828.55	N/A

The United States Trustee has reviewed the aforementioned applications, and for the reasons set forth below, the United States Trustee makes the following objections or comments to the award of compensation and reimbursement of expenses in the amount sought.

**ALL APPLICANTS**

1. The United States Trustee respectfully requests that this Court reduce any fees awarded by a percentage reduction pending the final resolution of this case. The results achieved serve as an important factor in determining the success of the efforts of these applicants. Since, at the present time, these results are still unknown, the United States Trustee believes a percentage reduction is proper at this time.

2. The United States Trustee believes that the percentage reduction should take into consideration the

performance of the Debtors who have, since the commencement of these cases, incurred cumulative losses of \$11.872 million, as set forth below:

<b>Net (Losses)</b>	
May 2000	(\$2,175,000.00)
June 2000	(\$2,412,000.00)
July 2000	(\$921,000.00)
August 2000	(\$2,366,000.00)
September 2000	(\$3,998,000.00)
Total	(\$11,872,000.00)

3. The United States Trustee also requests that the percentage reduction take into consideration the continuing discussions between the Debtors and the United States Trustee regarding the Debtors' liability for quarterly fees due pursuant to 28 U.S.C. § 1930(a)(6).

4. While the Debtors, who are jointly administered, utilize a centralized cash management system, the various individual operating debtors do make some actual disbursements of their own. The Debtors have paid quarterly fees for the second and third quarters of 2000, allegedly based upon the actual disbursements made by the respective individual operating debtors. Accordingly, the Debtors have made

payments totaling \$60,750.00 for the second quarter and additional payments totaling \$60,750.00 for the third quarter of 2000 for a combined total of \$121,500.00 to date.

5. While the Debtors have provided to the United States Trustee pre-petition monthly figures of the actual disbursements made by each of the respective individual operating debtors,<sup>1</sup> the Debtors have not yet produced or filed with the Court post-petition monthly figures of the actual disbursements by each individual debtor.

6. At issue between the United States Trustee and the Debtors is to what extent, if any, the centralized disbursements must be allocated among the respective debtors.

7. According to informal communication from the Debtors, a complete allocation of the centralized disbursements among the operating debtors would result in an aggregate annual quarterly fee liability of approximately \$1 million. The Debtors have not yet produced to the United States Trustee a schedule allocating the centralized

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<sup>1</sup>If, post-petition, the actual monthly disbursements made by each individual debtor are identical to the actual pre-petition monthly disbursements (or within the range prescribed by 28 U.S.C. § 1930(a)(6)), then the quarterly fee payments for each individual debtor appears to correspond properly to the actual monthly disbursements acknowledged by each such debtor. It should be clearly understood that there remains an open issue regarding whether additional disbursements should be allocated to the various individual debtors, resulting in an increase in the quarterly fee liabilities of such individual debtors.

disbursements among the individual debtors.

8. Based upon the foregoing, the United States Trustee requests that the percentage reduction also take into account the Debtors' potential unpaid statutory quarterly fee liability.

Fried, Frank, Harris, Shriver & Jacob

9. The United States Trustee notes that while the Applicant has filed the narrative portion of its Application as well as selected exhibits, it has not electronically filed its detailed time records.

10. The United States Trustee also notes that the Applicant filed a Supplement to its first Interim Fee Application, consisting of a computerized printout of individual expense details (the "Expense Supplement"). The Expense Supplement does not provide subtotals by expense categories or an overall total for all expenses.<sup>2</sup>

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<sup>2</sup>The Application states in Paragraph 93 that the request for reimbursement of expenses in the amount of \$177,297.35 is the result of "voluntary reductions and reductions required under the Local Guidelines." Because the Expense Supplement does not identify which expenses have been reduced or eliminated, the United States Trustee's objections to any of the listed expenses may obviously be resolved by confirming that the expenses objected to were not included in the Applicant's request for reimbursement of expenses in the amount of \$177,297.35.

11. The United States Trustee is concerned by the rate at which fees and expenses have been incurred by this Applicant and by the possibility of overstaffing.

12. During the first four months of this case, the Applicant has incurred fees of \$1,414,612.00 and expenses of \$177,297.35. Forty-two (42) attorneys and paralegals have been assigned to this case, in which thirteen (13) partners or counsel have billed \$615,727.00, ten (10) associates have billed \$723,901.50, and nineteen (19) paralegals have billed \$74,983.50.

13. In addition to the nineteen (19) paralegals mentioned previously, the Expense Supplement lists disbursements for what is identified as "Temp. Paralegal."<sup>3</sup> Since the temporary paralegals did not appear to maintain time records, it would be helpful to have a description of the services performed by the temporary paralegals as well as the overall cost of such services.

14. The United States Trustee objects to the request for reimbursement for "Telecopier" expenses in the amount of \$19,006.02 to the extent that such amount includes telecopier charges for facsimile transmission to local telephone

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<sup>3</sup>While the Application does provide a summary of the Applicant's disbursements, there is no separate category for temporary paralegals.

numbers.<sup>4</sup> The United States Trustee does not interpret Section F.3. of the Administrative Order Regarding Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases dated April 19, 1995 (the "SDNY Guidelines") as permitting the reimbursement of expenses for facsimile transmission to local telephone numbers.<sup>5</sup>

15. The United States Trustee objects to the request for reimbursement of expenses for "Transportation for late night and other exigencies" in the amount of \$26,055.57, unless the Applicant establishes that the expenses are reasonable and necessary. The United States Trustee maintains that further justification is needed for local transportation expenses in the following non-exclusive circumstances: (i) when the timekeeper bills a relatively small amount of time to the client on the day the transportation expense is incurred, (ii)

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<sup>4</sup>The United States Trustee notes that the Expense Supplement lists a number of "TELECOPIER/TELEX" charges for facsimile transmissions to local telephone numbers.

<sup>5</sup>Section F.3. of the SDNY Guidelines provides as follows:

3. Facsimile Transmission. A charge for out-going facsimile transmission to long distance telephone numbers is reimbursable at the lower of (a) toll charges or (b) if such amount is not readily determinable, \$1.25 per page for domestic and \$2.50 per page for international transmissions. Charges for in-coming facsimiles are not reimburseable. (Emphasis added)

when the time entries do not explain the need for transportation to a location other than the home of the timekeeper, and (iii) where transportation expenses are incurred in order to commute to the office. The following is a non-exclusive list of some of the transportation expenses that appear to require further explanation:

Date 2000	Name	Time	Expense	Description
6/8	SCHELER		\$86.19	06/08 1NY/94 LARCHMONT
6/8	SCHELER	1.00		Calls w/client
6/12	BENDER		\$87.21	06/12 1 NY/SCARSDALE
6/12	BENDER	0.40		Review and revise letters to litigants re: automatic stay and discuss w/C. Finnerty
6/12	BENDER	0.80		Confer w/L. First and J. Savin re: Global Bidding procedures motion and order and revise same
6/15	FIRST		\$72.17	06/15 82 & AMSTERDAM/SCARSDALE
6/15	FIRST	0.50		Call with P. Charles (Family Golf).
6/26	SCHELER		\$91.29	06/26 LARCHMONT/1NY [Commute to Office?]
6/26	SCHELER		\$83.64	06/26 1NY/81 WARREN ST
6/26	SCHELER	1.00		Confer w/L. First and G. Bender; call w/client and related follow up.
6/26	SCHELER	3.00		Prep. for, travel to/from and attend meetings with Steve Cooper (Zolfo Cooper) and Dominic Chang (Family Golf); related follow up; review and analysis of issues and business planning, etc.



6/28	FIRST		\$71.91	06/28 1NY/SCARSDALE
6/28	FIRST	0.50		Call with E. George (Obermayer Rebmann)
6/28	FIRST	0.50		Confer with C. Finnerty re: creditor inquiries
6/28	FIRST	1.00		Call with Creditors Committee and Chase re: bid procedures
7/12	SCHELER		\$25.50	07/12 1 NY/146 EAST 56 <sup>TH</sup> ST
7/12	SCHELER	0.50		Information from Larry First and Gerry Bender; call w/Harold Bordwin (Keen) and related follow up.
7/18	SCHELER		\$89.25	07/18 LARCHMONT/1NY [Commute to Office?]
7/18	SCHELER	3.00		Prep. for, participate on and follow up with respect to weekly conference call w/client and advisors and related follow up calls w/client, team, etc.
7/18	SCHELER	2.00		Review and analysis of issues w/Larry First; review of materials from client; review of pleadings in connection with asset sales and related follow up.
7/24	SCHELER		\$83.13	07/24 LARCHMONT/1NY [Commute to Office?]
7/24	SCHELER	1.00		Attend to issues in connection with chapter 11 case; confer w/Larry First; review and analysis of inquiry concerns, etc.

Zolfo Cooper, LLC

16. The United States Trustee requests that the Applicant comply with the "Project Billing Format" required by

Section II.D. of the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330 dated January 30, 1996 (the "UST Guidelines"). While the Applicant has established project categories and identified the applicable project category next to individual time entries, the presentation of the time entries chronologically by month and by individual does not comply with the "Project Billing Format" discussed in Section II.D. of the UST Guidelines and does not facilitate the review of the services rendered by the Applicant.

Berlack, Israels & Liberman LLP

17. The United States Trustee notes that while the Applicant has filed the narrative portion of its Application as well as selected exhibits, it has not electronically filed its detailed time records.

Chanin Capital Partners

18. Although the Applicant states in Paragraph 3 of its Application that it has complied with the SDNY Guidelines as well as the UST Guidelines, the Application failed to comply with a number of the requirements set forth in the guidelines.

19. The Applicant's time records did not comply with the "Project Billing Format" required by Section II.D. of the UST Guidelines. In addition, the Applicant failed to comply with Section II.D.5. of the UST Guidelines and instead (i) billed its time entries in quarter hour increments rather than the tenth of an hour increments, (ii) "lumped" various services into a single time entry, and (iii) in general, provided inadequate detail in the time entries - particularly with respect to the time entries covering a large number of hours.<sup>6</sup>

20. With respect to the Applicant's expenses, in the future, the Applicant should provide a summary of its expenses, itemized by applicable expense categories.

21. The Applicant should provide further explanation with respect to various inconsistencies in its request for

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<sup>6</sup>Section II.D.5. of the UST Guidelines provides as follows:

Time entries should be kept contemporaneously with the services rendered in time periods of tenths of an hour. Services should be noted in detail and not combined or "lumped" together, with each service showing a separate time entry; however, tasks performed in a project which total a de minimis amount of time can be combined or lumped together if they do not exceed .5 hours on a daily aggregate. Time entries for telephone calls, letters, and other communications should give sufficient detail to identify the parties to and the nature of the communication. Time entries for court hearings and conferences should identify the subject of the hearing or conference. If more than one professional from the applicant firm attends a hearing or conference, the applicant should explain the need for multiple attendees.

reimbursement. Exhibit A to the Application lists the Applicant's total expense reimbursement request for the period as \$2,159.23. But, in Exhibit C to the Application, the expense sheets for the months of June, July and August 2000 result in total expenses of \$2,247.93.

22. The Applicant should specify what adjustments were made to arrive at its current request for reimbursement of \$2,159.23. It appears that the adjustments should have included a reduction in the photocopy expense of \$52.10, in order to comply with the requirement under Section F.2. of the SDNY Guidelines, which limits the reimbursement of photocopies to \$.20 per page (rather than \$.25 per page). The Applicant should also confirm that it is in compliance with Section F.3. of the SDNY Guidelines and not requesting reimbursement for facsimile transmissions to local telephone numbers. See Section F.3. of the SDNY Guidelines.

WHEREFORE, the United States Trustee respectfully requests that the Court sustain the objections raised herein and grant such other and further relief as the Court deems just and proper.

Dated: New York, New York  
November 11, 2000

Respectfully submitted,

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UNITED STATES TRUSTEE

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